

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALEXIS ROSE,

Plaintiff,

v.

CHRISTOPHER SAPIENZA, *Commissioner,*
City of Yonkers Police Department, et al.,

Defendants.

7:24-CV-1887 (KMK)

ORDER OF SERVICE

KENNETH M. KARAS, United States District Judge:

Plaintiff Alexis Rose, who is appearing *pro se* and is currently incarcerated in the Green Haven Correctional Facility, brings this Action seeking damages and injunctive relief against Defendants Christopher Sapienza, the Commissioner of the Yonkers Police Department (“YPD”); Miriam E. Rocah, the District Attorney of the County of Westchester; Don Glo Towing, a private towing business, located in Yonkers, Westchester County, New York; John O’Rourke, an Assistant District Attorney of the County of Westchester; and YPD Police Officer Sherding, of the YPD’s Abandoned Vehicle Unit. Plaintiff asserts claims of violations of his federal constitutional rights under 42 U.S.C. § 1983.

By order dated April 2, 2024, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.¹ The Court directs service on the defendants.

¹ Prisoners are not exempt from paying the full filing fee, even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on assistance from the Court and the United States Marshals Service (“USMS”) to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the USMS to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service of the Second Amended Complaint (Dkt. No. 10) on the defendants, the Clerk of Court is respectfully directed to fill out a USMS Process Receipt and Return form (“USM-285 form”) for each of the Defendants. The Clerk of Court is further respectfully directed to issue a summons for each of the Defendants, and deliver to the USMS all the paperwork necessary for the USMS to effect service of the summonses and the Second Amended Complaint on the Defendants.

If the summonses and the Second Amended Complaint are not served on the Defendants within 90 days after the date that summonses for the Defendants have issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss this Action if Plaintiff fails to do so.

²Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the original complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the Second Amended Complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date that any summonses issue.

CONCLUSION

The Clerk of Court is respectfully directed to mail an information package to Plaintiff.

The Court directs service on Defendants Sapienza, Rocah, Don Glo Towing, Sherding, and O'Rourke.

The Court also directs the Clerk of Court to: (1) issue summonses for Sapienza, Rocah, Don Glo Towing, Sherding, and O'Rourke; (2) complete USM-285 forms with the service addresses for those Defendants; and (3) deliver all documents necessary to effect service of summonses and the Second Amended Complaint (Dkt. No. 10) on those Defendants to the USMS.

SO ORDERED.

Dated: November 4, 2024
White Plains, New York

A handwritten signature in black ink, appearing to read 'K. Karas', is written over a horizontal line.

KENNETH M. KARAS
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Christopher Sapienza, Commissioner
Yonkers Police Department
104 South Broadway
Yonkers, New York 10701
2. Miriam E. Rocah, District Attorney
County of Westchester
111 Dr. Martin Luther King Jr. Drive
White Plains, New York 10601
3. Don Glo Towing
179 McLean Avenue
Yonkers, New York 10705
4. John O'Rourke, Assistant District Attorney
County of Westchester
111 Dr. Martin Luther King Jr. Drive
White Plains, New York 10601
5. Police Officer Sherding, Badge No. 538
Yonkers Police Department
Abandoned Vehicle Unit
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